Higher Education and Research Bill

House of Lords, December 2016

About the BMA
The British Medical Association (BMA) is a professional association and independent trade union, representing doctors and medical students from all branches of medicine across the UK and supporting them to deliver the highest standards of patient care. We have a membership of around 170,000, which has been growing year on year. This briefing has been developed with our Medical Students Committee (MSC) and Medical Academic Staff Committee (MASC) and encompasses expertise from across our membership.

Overview
The BMA would like to raise the following key points in response to the Bill:

- The BMA does not believe that focusing on creating competition between higher education providers will ensure that the best education is provided to medical students or effectively promote medical research. More attention should be paid to encouraging co-operation between institutions and academics.

- We are committed to widening access medicine and creating a profession that better reflects the population it services and note that medicine does badly in providing places for students from lower social-economic backgrounds. We recommend the Bill provides for annual reporting of the number of disadvantaged students accessing higher education, by both institution and course.

- The BMA believes that proposed new fee raising powers contained within the Bill, linking fees to the Teaching Excellence Framework (TEF) could, in the long-term, lead to significant differences in tuition fees between providers which could deter poorer students from the best universities. This is an undesirable outcome which would drive inequality and does not align with the government’s aim of improving accessibility of all courses to students from disadvantaged backgrounds. Furthermore, such an approach could risk disrupting the successful recruitment of medical students needed to meet the country’s workforce requirements.

- The BMA believes that elements of the Bill, including provision for direction from the Secretary of State for overarching research themes and the appointment of individual Council Chairs, may limit the independence of the institutions proposed in the Bill and the flexibility of the funding regime. We believe there is potential for this approach to restrict the scope of the UK’s research functions and unnecessarily constrain overall capacity to promote innovation and drive future successes.

Office for Students (OfS) and register of higher education providers
The BMA believes that as the OfS will have responsibility for maintaining academic freedom, this should be reflected in the title of the regulatory body. As the maintenance of academic freedom is not simply about the freedom of institutions, but also the freedom of individual academics to pursue their own hypotheses, research priorities and to develop teaching modules. We suggest amending the organisation title to more accurately reflect this role, to: The Office of Students and the Academy. However we would also support an alternative such as amendment 119 moved, in the Commons, by Valerie Vaz MP, to rename the OfS, the Office for Higher Education.
**Recommendation:** The BMA calls for an amendment to the Bill which would change the name of the OfS to one that more accurately reflects its responsibilities.

**Competition between education providers**
The BMA recognises the role which will be played by the OfS to regulate higher education, to ensure high quality provision, and to promote values of equality and freedom of academic expression. However, the BMA continues to have concerns regarding the consequences arising from imposing an overly prescriptive regulatory regime with a priority to promote competition between different institutions. We consider that encouraging competition between academic institutions may have a significant impact of reducing cooperation and joint working between these organisations. Such cooperation provides the cornerstone of many successful research projects, and enables students to make connections and smooth transitions between organisations should they so wish, particularly in the event of postgraduate studies. Many medical students, for example, undertake intercalated studies (often in research) during their medical degree at a different higher education institution to that providing their main degree. We believe that it is beneficial for both students and for research outcomes that instead of just promoting competition, this Bill should also promote cooperation between institutions.

**Recommendation:** Amend the requirement for the OfS to encourage competition and add an amendment requiring the OfS to promote cooperation.

Clause 14 of the Bill requires the OfS to consult with bodies representing the interests of English higher education providers and the Secretary of State, once it has created a draft ‘list of principles’. The BMA agrees that consultation on the ‘list of principles’ is important to maximising the efficiency and success of the OfS, and recommends the Bill also include a requirement to consult with bodies representing education staff. This inclusion in the Bill would ensure proper representation of all those affected by oversight of the OfS.

**Recommendation:** Require consultation with bodies representing education staff on the OfS’ proposed list of principles.

**The register of English higher education providers**
Part one of the Bill creates a new single entry system for higher education providers, operating through a new register and changing criteria for the granting of degree awarding powers. The BMA is concerned that this approach could have a destabilising effect on publicly funded providers and on the NHS’s capacity to provide clinical placements for medical students. New providers of medical education should have to demonstrate that they can provide sufficient high quality clinical placements for their students, and that these placements are not at the expense of existing medical students.

**Recommendation:** We believe that specifically for medical degrees, further work should be carried out to assess how this approach may impact on workforce planning, widening access, and the existing relationships that medical schools have with the NHS.

Degree courses (particularly medical degrees) take time to plan and implement and are, therefore, not products that can be made available quickly in response to changes in the student market. For this reasons a wholly market-based approach to the provision of medical degrees will
not work. To secure the future of English medical schools and the tailored service that they provide, there needs to be an active policy for managing mergers and acquisitions in the HE sector with the aim of protecting medical teaching and research. This may require giving medical schools a greater degree of autonomy than they have at present.

**Recommendation: Undertake a risk assessment of the granting of degree awarding powers in the Bill, specifically in relation to the impact on workforce planning and widening access.**

**Fee limiting conditions**

Clause 10 of the Bill allows for the OfS to set fee limiting conditions on registered providers. It also allows for the charging of differential fees under the Teaching and Excellence Framework (TEF), allowing providers with a high level quality rating to raise their fees by inflation. The cap will therefore rise annually in line with inflation. The Bill also provides for the Secretary of State to set ‘sub-level’ fees. The BMA considers over time, this system could result in a noticeable differentiation in fees across providers. We are concerned about the impact on students from disadvantaged backgrounds and on graduate-entry medical courses, and believe it is crucial that a risk assessment is undertaken to ensure that future workforce needs will be met, and that those considering medicine as a second degree will not face the risk of being priced out of the market.

**Recommendation: Government to undertake a risk assessment of the new fee limit conditions and use of sub-level fees.**

The government has previously claimed that the TEF will be a useful tool for students to access clear information about the institutions and courses for which they are considering applying. While the BMA is supportive of measures to better inform and improve accessibility of courses to all students, it does not believe that the TEF will achieve this aim. We believe that rather than simplifying considerations this approach adds another layer of bureaucracy to an already complex system. We believe most students will continue to use the UCAS points system and league tables.

**Mandatory access and participation plan condition for certain institutions**

The BMA and its MSC are committed to promoting equality and inclusiveness in the study of medicine, and as such supports the Bill’s introduction of a transparency duty requiring higher education providers to publish data on the backgrounds of their applicants and requiring the OfS to promote fair access and success for students from disadvantaged backgrounds.

Medical students are already ethnically diverse with over a quarter (28%) of UK domiciled students offered a place at medical school from ethnic minority backgrounds. It is therefore imperative that this inclusivity continues, and that in addition we promote further measures to recruit more medical students from disadvantaged backgrounds. Currently medicine lags behind other subjects, with only two per cent of accepted medical students coming from socio-economic class VII indicating routine manual or occupational backgrounds.

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We would stress the importance of graduate entry to medicine as a means of widening access, and are concerned that the new tuition fees regime, outlined in the Bill, coupled with increased graduate contributions, will have consequences for medicine. Students (especially those from lower income backgrounds) will be deterred from medicine due to the amount of debt that it would entail. A study commissioned by the Department of Health found there was ‘consensus in research that debt aversion for non-traditional students is a factor that deters entry into higher education’. Other medical students could be encouraged to choose specialities that are deemed to be the most lucrative in order to help pay off their debts, impacting workforce planning.

**Recommendation: The impact of future increases in tuition fees on workforce planning and medical students’ aspirations needs to be carefully monitored.**

The BMA also supports measures in the Bill to collect and use data related to the backgrounds of students. The government should consider how and which data are measured and collected, such as: socio economic information; free school meals or first generation university attendees. Currently, while the Bill recognises that data collection and sharing are important to understanding the current picture, the BMA does not believe that they are sufficiently tailored to ensure that institutions are given the impetus and information they need to facilitate widening access to higher education. The BMA therefore makes the following recommendations:

**Recommendation: BMA supports the NUS’ call for annual reporting on student diversity figures and furthermore calls for the data to be reported on by course not just by institution**

**Powers to give financial support**

BMA supports the Bill’s ongoing provision for prescribed courses, such as medicine. In addition to ensuring that provision is made to support the study of medicine in England, there is also a need for consideration of the capacity of the NHS to absorb medical students (the effective maximum number) and the need to have security of supply of doctors (an effective maximum of overseas medical students whom we should assume will return to their home country). The BMA would, therefore, like to highlight the absolute need to ensure that sufficient numbers of medical students are recruited, and educated to a high standard.

**Quality and standards**

In general, the BMA supports the aim of improving access to high quality information about different courses and institutions. Whilst we acknowledge there is a need for consistency in the information provided, the structure and delivery of medicine differs from that of many standard three year undergraduate degrees. Therefore, the type of information required by prospective medical students, and the way in which it is accessed, is likely to be different. It is important that this is taken into consideration when developing standardised approaches in legislation. We are also somewhat unclear about what this might mean for the NHS, especially given the close connections between undergraduate medical courses and the health service: fourth and fifth year medical students spend much time being taught in and by the NHS.

**Recommendation: Ensure a role for the professions in shaping the higher education system. Teaching and taught postgraduate courses in the NHS should also be covered separately.**

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3 LSE Online; Does the fear of debt deter students from higher education? P.11 [http://eprints.lse.ac.uk/21010/2/Does_the_fear_of_debt_deter_students_from_higher_education_(LSERO).pdf](http://eprints.lse.ac.uk/21010/2/Does_the_fear_of_debt_deter_students_from_higher_education_(LSERO).pdf)
Bill part three: Establishment of United Kingdom Research and Innovation (UKRI)

The BMA has concerns regarding how the creation of the UKRI may alter the existing research funding process. Specifically, that reducing funding routes may impact upon the variety of research that is funded. Currently there exists a plurality of providers of medical research funding, each with differing priorities, which ensures that a wide scope of research receives funding. The BMA considers that there is a risk that by bringing together the Higher Education Funding Council for England (HEFCE) and MRC funding plurality of funding is diminished and focussed in a more narrow way and so the diversity of research activity itself is reduced.

Recommendation: Government should provide reassurances and explore options to ensure funding IS provided on the merits of proposals and not restricted to areas of specific interest.

The BMA believes that is crucial that Executive Chairs, appointed by Ministers on the advice of UKRI’s board are impartial and truly representative of their particular field: this is particularly important in key areas such as medical research. The BMA recommends that to ensure this is the case, there should be complete transparency throughout the appointment process.

Recommendation: BMA calls for transparency regarding the appointment process of UKRI Council chairs and the distribution of grants from the Secretary of State.

Clause 94 outlines details for UKRI Council’s strategic delivery plans. The BMA is keen to ensure that UKRI executive does not unduly influence the authority of councils to design and implement their own strategic delivery plans. We believe the autonomy of the councils would be undermined by the power of the UKRI to modify a council’s plan. We recommend instead that a power for UKRI to comment before approval, rather than an outright power to reject the plan.

Recommendation: Amend clause 93 to replace the allowance for a plan to be approved with or without modification to, to be approved with or without comment.

The BMA is concerned at the possible implications of making UKRI a civil service organisation. The Civil Service has restrictions on the nationalities that it can employ and a rigid recruitment process. It is possible that an existing academic may not be eligible to be employed by UKRI and that, in future, UKRI will be limited in who it can employ. We were led to believe that such concerns were among the factors that led Public Health England to offer honorary contracts to consultant clinical academics that specifically were not contracts of employment.

Recommendation: The BMA calls for clarification of whether nationality rules would impact UKRI staff and confirmation that the MRC will remain able to employ its own staff on existing terms and conditions.

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